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Matters relating to the mechanisms under the Kyoto Protocol
Review of the joint implementation guidelines

Recommendations of the Joint Implementation Supervisory Committee on the review of the joint implementation guidelines

Summary

This document presents the recommendations of the Joint Implementation Supervisory Committee on the review of the joint implementation guidelines for consideration by the Subsidiary Body for Implementation at its forty-second session. It was prepared in accordance with the request from the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its tenth session.

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I. Introduction

A. Mandate

1. At its tenth session, the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) requested the Joint Implementation Supervisory Committee (JISC) to provide recommendations on the review of the guidelines for the implementation of Article 6 of the Kyoto Protocol (hereinafter referred to as the JI guidelines) for consideration by the Subsidiary Body for Implementation (SBI) at its forty-second session.[1]

B. Scope of the note

2. This note contains the recommendations of the JISC on the review of the JI guidelines in response to the request of the CMP.

C. Possible action by the Subsidiary Body for Implementation

3. The SBI may wish to consider the recommendations of the JISC when making recommendations to the CMP on the possible revision of the JI guidelines.

II. Recommendations to the Subsidiary Body for Implementation

A. Joint implementation in the future climate regime

4. The review of the JI guidelines was mandated at CMP 1[2] in order to build on the experiences gained and lessons learned from the operation of the mechanism during the first commitment period of the Kyoto Protocol (2008–2012) and at the start of the second commitment period (2013–2020). The current status and timelines indicate that the revised JI guidelines will not be operational before the second half of the second commitment period owing to the need to finalize negotiations on this issue and to manage the transition from one set of guidelines to the other.

5. Furthermore, it is likely that joint implementation (JI) will suffer from prolonged low demand in the period up to 2020 given the prevailing levels of mitigation ambition. The state of progress in the ratification of the second commitment period and the current inability to issue emission reduction units (ERUs) for this period also present significant threats to the continued operation of the mechanism.

6. At the same time, the work that Parties are conducting under the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) on the 2015 agreement indicates that different commitment structures and mechanisms will become relevant in 2020 and will be accompanied by changes to rules for measurement, reporting and verification (MRV), and for the accounting of progress on commitments.

7. It is expected that, over time, more Parties will take on quantitative emission limits, although these may often be sector-based as well as economy-wide. This is of particular

[1] Decision 5/CMP.10, paragraph 8.
[2] Decision 9/CMP.1, paragraph 8.

relevance for JI, as it is a mechanism that provides for the crediting of activities in sectors or economies that are subject to quantitative emission limits (environments with "capped" emissions). However, the long-term perspective of JI will require it to be integrated into the MRV and accounting systems that will be developed for the 2015 agreement.

8. It is therefore recommended that, in continuing their review of the JI guidelines, Parties consider them in the light of the emerging picture of post-2020 mechanisms, currently discussed under the ADP. The growing number of Parties that could make use of a mechanism such as JI, and the developments in MRV and accounting rules are of particular relevance.

9. It is further recommended that Parties take note of the considerable investment that has been made by the JISC and by Parties, as reflected in the current draft text of the "Modalities and procedures for the implementation of Article 6 of the Kyoto Protocol"[3] (hereinafter referred to as the draft JI modalities and procedures). This draft builds on years of experience in the implementation of JI and provides for an enhanced mechanism with greater transparency and international oversight. Should Parties consider that a crediting mechanism for Parties that take on quantitative emission limits is to form a part of the post-2020 architecture, this investment and experience should be utilized to the fullest, and the review of the JI guidelines can provide a blueprint for this.

B. Joint Implementation Supervisory Committee conformity assessment process

10. One of the proposed functions of the JISC is the assessment of the conformity of host Parties with the modalities and procedures adopted by the CMP and the minimum requirements and procedures set by the JISC.[4] Parties would be required to rectify any identified non-conformities and provide evidence of such rectification to the JISC.[5]

11. Further provisions would be needed with regard to any consequences of identified or unaddressed non-conformities. The environmental integrity of JI would necessitate that a continuing failure to rectify identified non-conformities trigger a consequence sufficient to incentivize compliance, such as suspending a Party's ability to submit a notice of acceptance of the verification of emission reductions and removals.

12. It is therefore recommended that the following provisions be added to the draft JI modalities and procedures:

(a) Amendment to the beginning of paragraph 56: "Except where non-conformities raised pursuant to paragraph 13(e) above have not been rectified in accordance with paragraph 36 above, the JISC shall …";

(b) Additional paragraph 13 bis: "The JISC shall elaborate its procedures for the implementation of paragraph 13(e) above for consideration by the CMP, and shall subsequently recommend to the CMP revisions to such rules as needed".

[3] As contained in the appendix to the annex to FCCC/SBI/2014/L.34.
[4] FCCC/SBI/2014/L.34, annex, appendix, paragraph 13(e).
[5] FCCC/SBI/2014/L.34, annex, appendix, paragraph 36.

C. Joint Implementation Supervisory Committee review processes

13. A further proposed function of the JISC under the draft JI modalities and procedures is to review the registration of JI activities and the issuance of ERUs by host Parties.[6] The current text suggests that reviews should be conducted on a random basis. Such random selection in auditing is generally used where there is a low risk of error, the error has a low impact and all activities have a similar chance of error. It may be argued that this method is insufficiently robust to support the international oversight role of the JISC. It would be necessary to clearly state the consequences of a review that identifies problems.

14. It is therefore recommended that paragraph 13(f) of the draft JI modalities and procedures be amended as follows:

> "Undertaking reviews of JI activities in accordance with paragraphs 48 and 56 below and, where appropriate, postponing or declining to record them as registered JI activities or endorse the issuance of ERUs for them".

D. Convergence of common functions

15. The draft modalities and procedures include references to synergy between JI and the clean development mechanism (CDM): in paragraph 8, on minimum technical requirements, and in paragraph 40, on the accreditation of entities for validating activities and verifying emission reductions. These paragraphs point to technical work that is of the same nature and is needed by both mechanisms. Both the CDM and JI have technical panels working on the accreditation of third-party entities. While JI does not have a methodological panel, it uses methodologies developed by the CDM methodological panels and working groups.

16. The reference to minimum technical requirements refers to standards and procedures that define the nature of crediting activities and MRV rules for estimating emission reductions and removals. Technically, the issues and challenges associated with these requirements are the same for both mechanisms and independent of which mechanism the activities are registered under. The mechanisms stand to benefit from combining resources in undertaking this work as it would allow participants in the mechanisms to work within the same or similar requirements for their activities under both mechanisms and across all the regions in which they are active.

17. In the case of accreditation, synergy and alignment between the mechanisms could be expected to improve the quality and efficiency of their operation and reduce transaction costs for validators and verifiers being accredited.[7] It would provide for the consistent use of best practices, a consistent approach to identical issues and standards, and significant cost savings for the regulatory bodies, the secretariat, project participants and other stakeholders.

18. While the examples considered in the current draft modalities and procedures concern JI and the CDM, in the longer term, it would be worthwhile to consider synergy in the context of mechanisms under the 2015 agreement.

19. It is therefore recommended that Parties consider ways to encourage and build on synergy between JI and the CDM as well as with other mechanisms that may become relevant under the 2015 agreement.

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[6] FCCC/SBI/2014/L.34, annex, appendix, paragraph 13(f) – this could also potentially extend to reviews of any post-registration changes to a JI activity; see also paragraph 49.

[7] FCCC/SBI/2014/5.

E. Crediting periods

20. A number of issues relating to crediting periods remain open in the draft JI modalities and procedures. The period over which a JI activity can generate credits is a fundamental determinant of the financial viability of an activity. Longer crediting periods will tend to increase financial viability but provide less confidence that the emission reductions will remain real and additional in the long term. Shorter crediting periods with options for renewal allow for more frequent reassessment of the baseline and potentially additionality, thus increasing the certainty that emission reductions are real and additional while reducing certainty about the volume of ERUs issued over the life of a JI activity and increasing the transaction costs associated with that activity.

21. The current draft modalities and procedures link crediting periods to the commitment period of the underlying agreement. Such timing is very arbitrary for participants in JI activities and bears no relation to the period needed for financial viability or environmental integrity. As such, there is merit in setting the crediting period to the appropriate length for the JI activity while making it clear that issuance can only occur when the host Party has established a quantified emission limit for the relevant period. This would allow JI activities to be implemented for the long term in the context of governments undertaking to take on long-term quantitative commitments.

22. The draft modalities and procedures currently allow participants in a JI activity to choose the length of their crediting period, up to a maximum number of years. It would be beneficial to include an assessment of the appropriate length of the crediting period within the minimum technical requirements set for JI. A number of factors would be relevant in this assessment, such as technology, activity type and scale, barriers, lifetime of equipment and country context.

23. It is therefore recommended that the following amendments be made to the draft JI modalities and procedures:

(a) Additional paragraph 10(a) bis: "Ensure that the length of crediting periods, and renewals thereof, are appropriate for the JI activity";

(b) Deletion of elements in paragraph 43 referring to the expiry of the commitment period.

F. Scope of appeals

24. The draft JI modalities and procedures stipulate that any decision taken by the JISC may be subject to appeal by affected stakeholders. Such an appeal is to be conducted in accordance with provisions to be agreed by the CMP.

25. The term "any decision" is very broad and could be interpreted to include decisions of a procedural or intermediate nature. In order to prevent the appeal process from becoming overly complex and a burden on procedural decisions, it would be beneficial to only allow appeals of decisions of a final nature that impact directly on stakeholders or Parties. In particular, this would include final decisions on an activity, accreditation of independent entities and conformity assessments.

26. It is therefore recommended that the following amendment be made to paragraph 59 of the draft JI modalities and procedures:

"A final decision on an activity, accreditation of independent entities or conformity assessments undertaken by the JISC in accordance with these modalities and

procedures may be subject to appeal by affected stakeholders, pursuant to provisions to be agreed by the CMP".